

**ADOPTED REGULATION OF
THE DIVISION OF INDUSTRIAL RELATIONS OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R071-15

Effective April 4, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-5, NRS 618.295, 618.973 and 618.977, as amended by section 1 of Senate Bill No. 233, chapter 530, Statutes of Nevada 2015, at page 3657.

A REGULATION relating to occupational safety; revising and repealing obsolete provisions relating to the expiration and renewal of completion cards for OSHA-10 and OSHA-30 courses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

During the 2015 Legislative Session, the Nevada Legislature passed Senate Bill No. 233 which eliminated provisions: (1) governing the expiration and renewal of completion cards for OSHA-10 and OSHA-30 courses; and (2) authorizing the Division of Industrial Relations of the Department of Business and Industry to adopt regulations relating to continuing education for the renewal of such completion cards. (Chapter 530, Statutes of Nevada 2015, p. 3657) This regulation revises and repeals provisions relating to the renewal of completion cards for OSHA-10 and OSHA-30 courses, the requirements for continuing education and the persons who may provide continuing education courses.

Section 1. NAC 618.990 is hereby amended to read as follows:

618.990 As used in NAC 618.990 to ~~618.9927,†~~ *618.992*, inclusive, unless the context otherwise requires, the words and terms defined in NAC ~~618.9902 to†~~ *618.9904, 618.9908 and* 618.9912 ~~†-inclusive,†~~ have the meanings ascribed to them in those sections.

Sec. 2. NAC 618.9912 is hereby amended to read as follows:

618.9912 “Valid completion card” means ~~an unexpired†~~ *a* completion card issued to a person for:

1. An approved OSHA-10 course; or
2. An approved OSHA-30 course.

Sec. 3. NAC 618.9914 is hereby amended to read as follows:

618.9914 For the purposes of NRS 618.950 to 618.990, inclusive, and NAC 618.990 to ~~618.9927;~~ **618.992**, inclusive:

1. The phrase “person who actually performs physical work at a construction site that results in the construction, alteration or destruction involved in the construction project, including, without limitation, painting and decorating” from subsection 1 of NRS 618.957 is interpreted by the Division to mean a person who physically alters, adds to, subtracts from, improves, moves, wrecks or demolishes any building, highway, road, railroad, excavation or other structure, project, development or improvement, or does any part thereof, including the erection of scaffolding or other structures or works in connection therewith, at a construction site for the construction project.

2. The term “construction worker” does not include the following persons unless the persons are included within NRS 618.957 as interpreted by subsection 1:

(a) Any person engaged solely in architectural, building inspection, delivery, clerical, engineering, surveying or material testing work on a construction site;

(b) Any person engaged solely in administrative work on a construction site unless that person is a supervisory employee as defined NRS 618.967; or

(c) Any person who performs work on a construction site solely in his or her capacity as a public utility employee operating pursuant to safety regulations of the Public Utilities Commission of Nevada or 29 C.F.R. § 1910.

3. The phrase “components of the property” from subsection 2 of NRS 618.957 includes, without limitation, utility equipment.

Sec. 4. NAC 618.9917 is hereby amended to read as follows:

618.9917 All courses described in NAC 618.990 to ~~618.9927,~~ **618.992**, inclusive, must be conducted and made available in a language and format that is understandable to each employee.

Sec. 5. NAC 618.9902, 618.9906, 618.991, 618.9923, 618.9925 and 618.9927 are hereby repealed.

TEXT OF REPEALED SECTIONS

618.9902 “Approved OSHA-10 continuing education course” defined. (NRS 618.295, 618.973, 618.977) “Approved OSHA-10 continuing education course” means a 5-hour training course, offered to a person, that meets or exceeds one-half of the time, pro rata, of the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-10 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates.

618.9906 “Approved OSHA-30 continuing education course” defined. (NRS 618.295, 618.973, 618.977) “Approved OSHA-30 continuing education course” means a 15-hour training course, offered to a person, that meets or exceeds one-half of the time, pro rata, of the

guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-30 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates.

618.991 “Qualified continuing education course instructor” defined. (NRS 618.295, 618.973, 618.977) “Qualified continuing education course instructor” means a person who possesses credentials in the field of safety that the Administrator determines to be adequate, pursuant to subsection 2 of NAC 618.9927, to prepare the person to provide:

1. An approved OSHA-10 continuing education course; and
2. An approved OSHA-30 continuing education course.

618.9923 Renewal of valid completion card. (NRS 618.295, 618.973, 618.977)

1. An employee may renew a valid completion card for an OSHA-10 course by completing an approved OSHA-10 course or approved OSHA-10 continuing education course before the expiration of the valid completion card. An employee who has renewed a valid completion card for an OSHA-10 course must provide his or her employer with the valid completion card and written proof of completion of an approved OSHA-10 course or approved OSHA-10 continuing education course.

2. An employee may renew a valid completion card for an OSHA-30 course by completing an approved OSHA-30 course or approved OSHA-30 continuing education course before the expiration of the valid completion card. An employee who has renewed a valid completion card for an OSHA-30 course must provide his or her employer with the valid completion card and written proof of completion of an approved OSHA-30 course or approved OSHA-30 continuing education course.

618.9925 Requirements for continuing education courses provided by employer. (NRS 618.295, 618.973, 618.977, § 15 of ch. 432, Stats. 2009)

1. If an employer provides to an employee an approved OSHA-10 continuing education course or an approved OSHA-30 continuing education course, the employer shall:
 - (a) Provide to the employee written proof of completion of the course;
 - (b) On request, provide to the Division written proof of completion of the course; and
 - (c) Retain a copy of the written proof of completion of the course for at least 5 years.
2. An employer may provide an approved OSHA-10 continuing education course or an approved OSHA-30 continuing education course online if the course is developed by, or with the assistance of, a qualified continuing education course instructor.

618.9927 Persons who may provide continuing education courses. (NRS 618.295, 618.973, 618.977)

1. No person other than a trainer, as defined in subsection 3 of NRS 618.980, or a qualified continuing education course instructor may provide an OSHA-10 continuing education course or an OSHA-30 continuing education course.
2. The Administrator may determine that a person may act as a qualified continuing education course instructor if the person, without limitation:
 - (a) Is authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, if the person has completed OSHA 500, the Trainer Course for the Construction Industry;
 - (b) Has 3 years of experience in overseeing matters of occupational safety and health in the field of construction; or

(c) Has 2 years of experience in overseeing matters of occupational safety and health in the field of construction and has:

(1) A college degree in occupational safety and health; and

(2) Been designated as:

(I) A certified safety professional; or

(II) A certified industrial hygienist.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

**IN THE MATTER OF THE ADOPTION
OF PERMANENT REGULATION
RELATING TO OCCUPATIONAL
SAFETY; REVISING AND REPEALING
OBSOLETE PROVISIONS RELATING
TO THE EXPIRATION AND RENEWAL
OF COMPLETION CARDS FOR OSHA-
10 AND OSHA-30 COURSES; AND
PROVIDING OTHER MATTERS
PROPERLY RELATING THERETO.**

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066
LCB FILE NO. R071-15**

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to and repeal of provisions contained in Nevada Administrative Code (NAC), Chapter 618.

1. A clear and concise explanation of the need for the adopted regulation.

The Division of Industrial Relations, Occupational Health and Safety Administration's proposed amendments to NAC 618.990, 618.9912, 618.9914 and 618.9917 and repeal of NAC 618.9902, 618.9906, 618.991, 618.9923, 618.9925 and 618.9927 are necessary to comply with NRS 618.983, as amended by Section 2 of Senate Bill 233, Chapter 240, Statutes of Nevada 2015, at page 3657, which eliminated the OSHA-10 and OSHA-30 renewal courses and cards.

2. A description of how public comment was solicited, a summary of public responses, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notices of workshop and notices of intent to act upon a regulation were sent by U.S. mail and e-mail to over 85 persons who were known to have an interest in the subject of Chapter 618 of the Nevada Administrative Code ("NAC"), as well as any persons who had specifically requested such notice. These documents were also made available at the websites of the State of Nevada and the Department of Business and Industry, Division of Industrial Relations, Occupational Safety and Health Administration's website

(www.dirweb.state.nv.us/OSHA/osha.htm), mailed to all county libraries in Nevada and posted at the following locations:

Division of Industrial Relations
400 W. King Street, #210
Carson City, NV 89703

Department of Business and Industry
555 E. Washington Ave., #4900
Las Vegas, NV 89101

Nevada OSHA
1301 N. Green Valley Pkwy., #200
Henderson, NV 89074

Nevada OSHA
4600 Kietzke Lane, Bldg. F, #153
Reno, NV 89502

Grant Sawyer Building
555 E. Washington Ave,
Las Vegas, NV 89101

Bradley Building
2501 E. Sahara Ave.
Las Vegas, NV 89104

Nevada State Library, Archives and Public Records
100 Stewart Street
Carson City, NV 89701

A Workshop was held via videoconference on November 4, 2015, at 1:30 p.m. at Nevada OSHA, 1301 N. Green Valley Pkwy., 1st Floor, Video Conference Room, Henderson, Nevada; and Nevada OSHA, 4600 Kietzke Lane, Bldg. F, #153, Video Conference Room, Reno, Nevada.

On or about December 10, 2015, the Administrator of the Department of Business and Industry, Division of Industrial Relations (Administrator), issued a Notice of Intent to Act on Proposed Regulations. Public hearings were held on January 20, 2016, at 1:30 p.m. at the Division of Industrial Relations, 1st Floor, Video Conference Room, 1301 N. Green Valley Parkway, Henderson, Nevada and at Nevada OSHA, 4600 Kietzke Lane, Building F, #153, Video Conference Room, Reno, Nevada.

A copy of this summary of the public response to the proposed regulations may be obtained from Donald C. Smith, Esq. at the Division of Industrial Relations, Legal Department, 1301 N. Green Valley Pkwy., #200, Henderson, NV 89074, 702-486-9070, or e-mail to donalddsmith@business.nv.gov.

3. The number of persons who:

- (a) Attended each hearing;**
- (b) Testified at each hearing; and**
- (c) Submitted to the agency written comments.**

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information, if provided to the agency conducting the hearing:

- (a) Name;**
- (b) Telephone number;**
- (c) Business address;**
- (d) Business telephone number;**

- (e) Electronic mail address; and
- (f) Name of entity or organization represented.

At the **November 4, 2015, Workshop**, which was held at two sites via videoconference, in Las Vegas, no one attended, and in Carson City, three (3) attended, with testimony received from one (1) attendee. A summary of the testimony at this public hearing follows:

Brian Reeder, Associated General Contractors, Nevada Chapter, 5400 Mill Street, Reno, Nevada 89502; Telephone: 775-329-6116; E-mail: brianr@nevadaagc.org.

We appreciate the opportunity to come in and comment. Everything looks good to us. We were in support of the Bill during the Legislative Session and as far as we can tell these Regulations match what the Bill says—it looks good.

No written comments were received following the November 4, 2015 public workshop.

At the **January 20, 2016, public hearing** on adopting the regulations, which was held in Henderson, no one attended, and in Reno, Nevada, one (1) attended and there was no testimony proffered.

No written comments were received by the January 27, 2016 deadline, following the January 20, 2016 public hearings regarding the adoption of these regulations.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

To determine whether the amendments to NAC 618.990, 618.9912, 618.9914 and 618.9917 and repeal of NAC 618.9902, 618.9906, 618.991, 618.9923, 618.9925 and 618.9927 are likely to have an impact on small businesses, the Division considered the purpose and scope of the potential proposed amendments and repeals to NRS 618.983 as amended by the 2015 Legislature in SB 233, Sec. 2, effective June 10, 2015. Based on this review, the Division determined that these regulations will only have a beneficial financial impact on small businesses and will have no indirect effect on small businesses. This regulation will not restrict the formation, operation or expansion of a small business. This regulation merely reflects the amendment to NRS 618.983, which eliminated the OSHA-10 and OSHA-30 renewal courses and cards. The time and expense of a business' employees attending and completing these renewal courses no longer exists.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulations without change.

The permanent regulation was adopted on February 2, 2016. As there was no testimony at the public hearing and no written comments received regarding the proposed regulation, no changes were made.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

The Division anticipates no adverse effects, either direct or indirect, on businesses and the public as the result of the adoption of these regulations.

The Division anticipates a beneficial financial impact, both direct and indirect, on regulated businesses and the public as a result of the adoption of these regulations, as the time and expense of a business' employees attending and completing the OSHA-10 and OSHA-30 renewal courses no longer exists.

The Division anticipates no immediate effects, either adverse or beneficial, on regulated businesses and the public as this regulation merely reflects the amendment to NRS 618.983, which eliminated the OSHA-10 and OSHA-30 renewal courses and cards.

The Division anticipates no adverse long term effects on businesses and the public with the implementation of these adopted regulations. The Division anticipates beneficial long term effects on businesses and the public with the implementation of these adopted regulations, as the time and expense of a business' employees attending and completing the OSHA-10 and OSHA-30 renewal courses no longer exists. .

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of these regulations.

9. A description of any regulations of other state or government agencies, which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed regulations duplicate.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The proposed regulations do not include any provisions which duplicate or are more stringent than existing federal, state or local standards.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulations do not provide for a new fee or increase an existing fee payable to the Division.

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small

business? What methods did the agency use in determining the impact of the regulation on a small business?

The Administrator has determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.

Dated this 2nd day of February, 2016.

By: /s/
Donald C. Smith, Esq., Division Counsel
Department of Business and Industry
Division of Industrial Relations
1301 N. Green Valley Pkwy., #200
Henderson, NV 89074